

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**ETHAN MURPHY, STEPHANIE
CASTILLO, CHRISTOPHER L. SCOTT,
LOGAN SCOTT, NICOLE CLOUSE, and
NYAMKA AYINOLA, and EDGAR
OCOTOXTLE, on behalf of themselves and
others similarly situated,**

No. 13 Civ. 6503 (RJS)

Plaintiffs,

v.

**PHILIPPE LAJAUNIE, LA BOUCHERIE
INC., 15 JOHN CORP, LHLM GROUP,
CORP. a/k/a BRASSERIE LES HALLES
NEW YORK, and XYZ CORP.,**

Defendants.

DECLARATION OF LOGAN SCOTT

Logan Scott, being duly sworn, deposes and says:

1. I worked for Brasserie Les Halles Park Avenue (“Les Halles Park Avenue”) from approximately July 2008 to April 2013.
2. When I first started working for Les Halles Park Avenue, I was employed as a server. Around August 2009, I also began working as a bartender. In or around December 2009, I became the bar manager.
3. When I was the bar manager, I sometimes filled in as a floor manager.
4. In January 2013, I became a bartender and server again.
5. When I was employed as a server and bartender, I was paid the tip credit minimum wage. In January 2013, this was \$5.00 per hour. When I was the bar manager, I was paid \$390 per week.

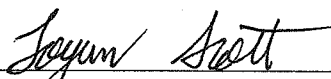
6. When I was a server and bartender, my overtime rate was one and a half times my hourly rate. For example, when my hourly rate was \$5.00 per hour, I was paid overtime at a rate of \$7.50 per hour.
7. Throughout my employment at Les Halles Park Avenue – including when I was a bar manager – I was required to participate in the restaurant's tip pool.
8. The tip pool included managers (identified as maitre d's on the tip sheet) (referred to herein as the "Managers"), busboys, bartenders, the bar manager, servers, and runners. At some point, hostesses were also included in the tip pool. The tip pool was divided on a percentage basis, with Managers receiving 10% of the house pool. The bar manager received a share of the tip pool equal to that of a bartender.
9. During my employment the Managers included Frederique (last name unknown), John Lopez, Mario Quinbay, Alexandra (last name unknown), Anthony Nacci, Petr Landa, Magda Wybieralska (before she became general manager), Chad Combs, and Anthony Rinaldo. In addition, when I was the bar manager, I sometimes filled in as a Manager. When I did so, I was included in the tip pool.
10. The Managers directly supervised service employees. They assigned service employees their daily sections, informed service employees of the restaurant's service points and policies, enforced the restaurant's service policies, and corrected employees as they worked. In general, the Managers managed the restaurant's front of house service.
11. The Managers also assigned side work, such as folding napkins, setting up stations, and refilling condiments.

12. The Managers hired and fired employees. I was hired by Manager Frederique (last name unknown), and I saw Manager John Lopez fire a busser. When I was the bar manager, I hired bartenders.
13. The Managers disciplined employees and influenced their schedules. For example, I saw Managers send service employees home when the restaurant was overstaffed and for disciplinary reasons, such as intoxication and failure to wear the proper uniform.
14. At one point, John Lopez set the floor schedule. When I was the bar manager, I set the bar schedule.
15. When I worked as a server, I had to get permission from the Manager on duty before I could leave the restaurant and go home.
16. The Managers also had authority to adjust the time records of service employees.
17. At the end of a shift, the Manager on duty printed a report of all transactions. When I worked as a server, I was required to review all of my transactions and return the sheet to the Manager for approval.
18. At the end of a shift, the Manager on duty also prepared a general restaurant report and created the tip sheet reflecting the amount that each tip pool participant was entitled to.
19. I received my cash tips from a shift the next day from a Manager.
20. The Managers were responsible for handling customer complaints. I observed Managers assign a different server to customers who were not happy with their original server.
21. The Managers had authority to comp food and beverages to customers.
22. When the general manager was not in the restaurant, the Manager was in complete control of the restaurant. When I filled in as a Manager, I was in charge of the restaurant

from the time the general manager went home (generally between 10:30 p.m. and 11:15 p.m.) until the restaurant was locked up between 1:00 a.m. and 1:30 a.m.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: November 14, 2013



Logan Scott